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## HISTORICAL NOTES AND QUERIES.

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ERRATUM.—“ Benjamin Harrison, of Brandon, the signer ” (Vol. IV, page 92), should be “ Benjamin Harrison, of Berkeley.”

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### MECKLENBURG DECLARATION OF INDEPENDENCE.

*Editor of the Virginia Historical Magazine :*

SIR: In your October number Dr. George W. Graham replies to my criticism in your July number, of the pamphlet printed by himself and Prof. Alexander Graham, on the genuineness of the Mecklenburg Declaration of 20th May, 1775. In my criticism I quoted from the Journal of the Provincial Congress of North Carolina, which met on 20th August, 1775, showing that not only did the delegates from Mecklenburg county take an oath of allegiance to King George, but that they joined in an address to the people of Great Britain, indignantly denying that independence had been aimed at in any part of the Colony, and I presented to the advocates of the Declaration of 20th May, 1775, the two horns of a dilemma. “ Either the Congress of North Carolina, including the delegates from Mecklenburg county, told the truth, and the declaration was not made, or the declaration was made, and, the North Carolina Congress, including the delegates from Mecklenburg county, were guilty of base falsehood.” Dr. Graham boldly takes the horn of this dilemma which exhibits the Mecklenburg patriots as guilty of base falsehood, and is willing to save the asserted Declaration of the 20th May, at the expense of the veracity of those who are said to have made it. It is a sad spectacle, and if Dr. Graham can maintain his position, he will have consigned the much honored patriots of Mecklenburg county, and indeed of North Carolina, who constituted the Congress, to lasting infamy. I shall, in this review of his communication, defend the patriots of North Carolina, and of America, from his charge brought against them, of “ insincerity and deceit.” And first let me state what was the position publicly taken by the patriots of America previous to, and during the summer of 1775. This may be stated in the words of the Continental Congress in their addresses adopted 8th July, 1775. In these they draw the distinction between allegiance to their sovereign, and obedience to measures of his ministers and of Parliament contrary to the British Constitution, and destructive of British freedom, a distinction which runs like a thread of gold through English History.

In their declaration setting forth “ the causes and necessity of taking up arms,” after stating the oppressive acts of the ministry and parliament, which caused them to take the step, and the considerations which prom-

ised success, they say: "With hearts fortified with these animating reflections, we most solemnly before God and the world declare, that exerting the utmost energy of those powers which our beneficent Creator hath graciously bestowed upon us, the arms we have been compelled by our enemies to assume, we will in defiance of every hazzard, with unabating firmness and perseverance employ for the preservation of our liberties; being of one mind, resolved to die freemen rather than live slaves. Lest this declaration should disquiet the minds of our friends and fellow subjects in any part of the Empire, we assure them, that we mean not to dissolve that union which has so long and so happily subsisted between us, and which we sincerely wish to see restored. Necessity has not driven us into that measure, or induced us to excite any other nation to war against them. We have not raised armies with ambitious designs of separating from Great Britain and establishing independent States."

In their address to the king they say: "We, your Majesty's faithful subjects \* \* in behalf of ourselves and the inhabitants of these colonies, who have deputed us to represent them in General Congress, entreat your majesty's gracious attention to this our humble petition. \* \* \* Your majesty's ministers, persevering in their measures, and proceeding to open hostilities for enforcing them, have compelled us to arm in our own defence, and have engaged us in a controversy so peculiarly abhorrent to the affections of your still faithful colonists, that when we consider whom we must oppose in this contest, and if it continues what may be the consequence, our own particular misfortunes are accounted by us only as part of our distress. \* \* From such arrangements as your Majesty's wisdom can form for collecting the united sense of your American people, we are convinced your Majesty would receive such satisfactory proofs of the disposition of the colonies toward their sovereign and Parent State, that the wished for opportunity would soon be restored to them of evincing the sincerity of their professions by every testimony of devotion, becoming the most dutiful subject, and the most affectionate colonists." This address to the King was signed, apparently, by every delegate present, among them two from North Carolina. These extracts show no "insincerity or duplicity." The Congress, while openly proclaiming their allegiance to the King as their constitutional sovereign, distinctly stated their determination to resist to the utmost, and with arms in their hands, the unconstitutional measures of his ministry and of Parliament.

The Provincial Congress of North Carolina, which met the 21st August, 1775, used similar language, as appears by their journal, and while professing allegiance to the King, denied the right of Parliament to tax the colonies, and claimed the right to resist the enforcement of such a tax at the hands of the ministry. So there was no "insincerity or duplicity" in their declaration on this point. But Dr. Graham,

no doubt, means to claim, that while this and other Colonial Assemblies were denying that they desired, or intended, independence, they were, in fact, aiming at it. This is a libel on our Revolutionary fathers, which was uttered by Tories at the time, but which comes with ill grace from a descendant of those patriots. It was denied by the men who had the best opportunity of knowing the facts, and the persistent efforts of the patriots to effect a settlement of their difficulties with the mother country, on a constitutional basis, proves their sincerity.

The private correspondence of leading patriots shows conclusively that independence was not desired up to the winter of 1775-6. Thomas Jefferson wrote on 25th August, 1775, to John Randolph, in England, expressing his earnest desire to remain in dependence with Great Britain. Samuel Adams wrote to Arthur Lee, February 14, 1774, stating that "we all sincerely deprecate the idea of independence." George Washington wrote, 9th October, 1774, to Captain MacKenzie: "I am well satisfied that no such thing as independence is desired by any thinking man in all North America." John Jay, after the Revolution, wrote: "During the whole course of my life, and until after the second petition of Congress in 1775, I never heard an American of any class, or of any description, express a wish for the independence of the colonies. It has always been, and still is, my opinion and belief, that our country was prompted and impelled to independence by necessity, and not by choice." These were members of the Continental Congress and knew the sentiments of the body.

After the second petition to the King had reached England, in the fall of 1775, Governor Richard Penn was examined before Parliament, and declared that he was acquainted with almost all the members of Congress, and he had never heard them breathe sentiments of independence. Though other witnesses might be produced, I will only add the testimony of the Synod of New York and Philadelphia, composed of members from New York, New Jersey, Delaware, Pennsylvania, Virginia, and North Carolina. In a pastoral letter, dated 22d May, 1775, they say: "It gives us pleasure to say, from our own certain knowledge of all belonging to our communion, and from the best means of information of the far greatest part of all denominations in this country, that the present opposition to the measures of administration does not in the least arise from disaffection to the King, or a desire of separation from the parent State." Surely this testimony is sufficient to establish a desire in America for a continued connection with Great Britain as late as the summer of 1775.

The second petition to the King was met by a violent speech from the Throne, when Parliament was opened, October 26, 1775; and this was followed by vigorous war measures, among which was an act prohibiting all trade with the colonies, making American vessels and goods liable to capture as prizes, and compelling the seamen captured to serve against

the colonies. A force was also dispatched to subjugate the southern colonies. News of these acts reached America early in 1776, and changed the feelings of the patriots, who soon realized that instead of reconciliation, they were offered subjugation. And at once the determination to sever the ties which bound the colonies to the mother country was taken. I need not quote authorities for this, as it will be found in all reliable histories of the Revolution. When the determination to take up independence was formed it was boldly avowed.

Dr. Graham only cites Winsor's *Narrative and Critical History of America*, Vol. VI, pages 246 to 251, as authority for his charge of "insincerity and duplicity," as common to Provincial and Continental Congresses of the Revolution. His citation is unfortunate. The chapter cited was written by Dr. Geo. E. Ellis, and is an elaborate defence of these congresses from the charge, which originating with Tories, is now revived by Dr. Graham.

But Dr. Graham endeavors to support his charge against the North Carolina Provincial Congress by reference to its journal. He cites from a resolution which stated that the persons lately engaged in what was known as the war of the Regulators, should be protected from every attempt to punish them, but he fails to give the reason for the resolution set forth in its preamble. This reads as follows: "Whereas it is manifest, that endeavors have been used by enemies to the liberties of America, to persuade several of the inhabitants of this Province, who were engaged in the late insurrection, that they remained still liable to be punished, unless pardoned by His Majesty; and that pardons can only be obtained on condition that they shall, when required, take arms, and act offensively against such persons as shall be devoted to destruction, for having taken an active share in defence of American liberty. And whereas it is well known, that no punishment can now lawfully be inflicted on any person concerned in said insurrection, whether mentioned in the act of outlawry on that occasion or not."

This resolution was not in the interest of treason, as claimed by Dr. Graham. Governor Martin after his arrival in the Colony, and an investigation of the Regulators' war, declared that the actions of the people called Regulators, "had been provoked by insolent and cruel advantages, taken of the peoples ignorance, by mercenary tricking attorneys, clerks, and other little officers, who had practiced upon them every sort of racking and extortion, by which they had brought upon themselves just resentment, \* \* that the resentment of government was craftily worked up against the oppressed, so that the oppressors treacherously secured protection, where the injured and ignorant people expected to find it, and that this drove them to acts of desperation, and confederated them in violences." (*N. C. Col. Rec.*, Vol. IX., page V.). Their prosecution had been stopt by the opinions of Chief Justice Howard and Mr. Justice Moore. The last named said; "These people are not regu-

larly outlaws \* \* . All proceedings against those who were capitally charged are *ab initio* void." (*Idem* page VI.) The proceedings instituted against the Regulators, were also held to be invalid by the Attorney General. (*Idem*.) It is strange that at this late day, in view of these facts, the resolution of the Provincial Congress, informing these people that they need not fear legal prosecution, should be cited as an example to prove that the said Congress, "while professing loyalty to the King, encouraged rebellion and sedition in every manner possible." But it is stranger still, that this should be done by a North Carolinian.

Dr. Graham cites as evidence of "insincerity and duplicity" in the Congress of North Carolina patriots, their statement of the necessity for organizing a temporary government, namely, "his excellency, the Governor refusing to exercise the functions of his office by leaving the Province, and retiring on board a man of war, without any threats or violence to compel him to such a measure." He quotes the editor of the *North Carolina Colonial Records* as saying, that "the impudence of this is simply sublime." Dr. Graham asserts that the Governor had been driven from New Berne, the capital, by Abner Nash, a member of the Congress, at the head of a mob, and made to take refuge in Fort Johnston, on the Cape Fear river; from whence he was driven by Colonel Ashe, another member, at the head of an armed regiment, on board the *Cruzier*, his majesty's man of war. Both the editor of the *Colonial Records* and Dr. Graham, are entirely mistaken, and the Congress told the exact truth. We have Governor Martin's own account of what happened at both of these localities, in his letters to the Earl of Dartmouth, and it sustains the statement of the Congress. The first of these letters is dated 30th June, 1775, and is found at page 41, &c., Vol. X, of the *North Carolina Colonial Records*. In it he stated, that having dismounted the cannon which lay behind his mansion at New Berne, Abner Nash, at the head of the people of the town, called on him, and stated the alarm among the people, in view of the late action of the Governor of Virginia attempting to deprive the Virginians of their ammunition, and asked that the cannon be remounted. He says, he satisfied them by stating that he had found the carriages rotten, and unfit for firing at the approaching anniversary of the King's birthday. He confessed to the earl that he concealed his main reason, which was to prevent the people from using the cannon. He added, that having information that General Gage had shipped him some military stores, and fearing their landing at New Berne would cause disturbance, especially if his correspondence with Gage was made public, he sent his family to New York, and himself retired to Fort Johnston. He mentions no violence, actual or threatened, as causing his conduct, and it is evident, that having deceived the people, he feared their resentment when they discovered the deception. At page 69 of the same volume is found his

letter to Dartmouth, dated 6th July, 1775, from Fort Johnston, and at page 96, his letter of 16th July, 1775, from the sloop Cruzier. In the last he made no mention of any violence which had caused him in the interval to leave the fort and retire to the sloop. The only reasons suggested for this conduct were, that a letter of General Gage to him was said to have been intercepted, that the fort was contemptible and the garrison very feeble, and that he could protect the artillery of the fort as well by the guns of the sloop as if mounted on the walls, so that he had withdrawn the garrison and dismounted the guns. Evidently his intercepted correspondence had shown his duplicity, and he feared the resentment of the people. At page 108 is found his letter to Dartmouth, dated 20th, July, 1775, which informed him of the burning of the evacuated fort by a mob led by John Ashe and Cornelius Harnett, caused by a bitter feeling against Captain Collet, the commander of the fort, whose house was also burned, and who, we learn from other sources, had harbored run-away slaves. The Governor makes no complaint of any violence offered him on this occasion, the only one in which it is charged that Ashe offered it. Indeed, as I have shown, the Governor had retired to the sloop before Ashe and his people ever appeared at the fort. In corroboration of the above statements of the Governor, I would cite his proclamation of 8th August, 1775, heretofore referred to, which, while it seems to sum up all the acts of the North Carolinians, which he deemed objectionable, never once states that any violence had been offered to himself.

Dr. Graham cites also several instances of declaration by the Congress of attachment to "the rights and liberties of America," and of obedience to the acts of the Continental and Provincial Congresses, which he calls illegal bodies, and these he considers inconsistent with their profession of allegiance to the King, citing the *ipse dixit* of Governor Martin for his position. This is the highest toryism I have met with since the Revolution. After 1688, at least, when William and Mary were called to the British throne, under an agreement known as the Bill of Rights, the sovereigns of Great Britain were bound to rule under constitutional restrictions, and the same constitution states and protects the rights of their subjects.

It is a maxim of that Government that the King can do no wrong, and that his ministers are responsible for his government, and for violations of the constitution; consequently there is always a party in opposition to the acting ministry, and sooner or later such opposition proves too strong for the ministry, who are forced to resign to have their places filled by their opponents. The Americans, during the Revolutionary period, up to 1776, claimed the protection of this constitution, and the right of all Englishmen to meet to consult of their grievances, and to oppose the measures of the ministry which they deemed unconstitutional and destructive of their rights. During 1775 the ministry had

commenced hostilities, and the colonists were forced to take steps to defend themselves. Dr. Graham seems to take the ground that opposition to the measures of the ministry was treason to the King. Such was the doctrine of Strafford, of Laud, and of Jeffress. The measures of the ministry were opposed, and the conduct of the colonies was defended by Lords Chatham, Camden, Shelborne and others, in the House of Lords, and by Burke, Fox, Barrè and others, in the House of Commons—men of eminent talents and of undoubted loyalty to the King, some of whom were subsequently in his ministry. Chatham declared that he was glad America had resisted. But Dr. Graham has turned his back on the Whigs of England, and advocates the high toryism of the days of the Stuarts, and by that standard would brand the patriots of the Revolution as traitors, because, while professing loyalty to the King, they were opposing the measures of his ministry, and defending their constitutional rights.

Dr. Graham still relies on the description by Governor Martin of the Mecklenburg Resolutions, as sustaining the paper claimed to have been adopted 20th May, declaring independence. But the description of the Governor was applicable as well to the published resolves of 31st May from his standpoint. These last declared, that "all laws and commissions confirmed by or derived from the authorities of the King and Parliament are annulled and vacated, and the former civil constitution of these colonies for the present wholly suspended." Dr. Graham cites the Governor as describing their published proceedings to his Council as "the late most treasonable publication by a committee in the county of Mecklenburg, explicitly renouncing obedience to his ministry's Government, and all lawful authority whatsoever." And to Lord Dartmouth as follows: "The resolves of the Committee of Mecklenburg, which your lordship will find in the enclosed newspaper, surpass all the horrid and treasonable publications that the inflammatory spirits of this country has yet produced:" and in his proclamation of 8th August, 1775, in these words: "Whereas I have also seen a most infamous publication in the *Cape Fear Mercury*, importing to be resolves of a set of people styling themselves a committee of the County of Mecklenburg, most traitorously declaring the entire dissolution of the laws, government, and constitution of this country." Now all these expressions could be used by Governor Martin in reference to the resolves of 31st May, which declared all laws and commissions annulled and vacated, and the former civil constitution for the present wholly suspended—a declaration made for the first time in the colony. That the Governor would consider the resolves of May 31st horrid and treasonable, was natural for a man in his situation, and was in keeping with his designation of other acts of the North Carolina patriots.

Dr. Graham thinks there could have been no confusion between the Julian and Gregorian styles for computing time in North Carolina in 1775,



so that the old men afterwards might remember the 31st as the 20th May, and he states: "that the meetings of the committee of safety, Provincial Congresses, and State Papers, with Century Calendar, show dates by the Gregorian, or new style." That may be true, and yet the people in their private papers may have used both dates, and I expect Dr. Graham will find some such papers. But the suggestion of confusion of dates was made in charity to the old men, who, more than forty-four years afterwards, were called on to make statements from memory, as to what was the date of the meeting of the Mecklenburg committee in May, 1775. If the suggestion is declined, it will be to the damage of the witnesses, as there certainly was such a meeting on the 31st May, which adopted patriotic resolves.

In conclusion, I would express my deep regret, that the desire to uphold the apocryphal resolves of the 20th May, 1775, has induced their advocates to attempt to undermine the character of the very men they boast of as great patriots, for without veracity, what is character worth?

W. W. HENRY.

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#### BURNING CRIMINALS.

In the *Virginia Magazine of History & Biography* for January, 1896, Dr. A. G. Grinnan wrote as follows: "Few have been the cases in which criminals have been burnt at the stake by judicial process in the region now embraced by the United States during the Colonial period. At present we can recall only three cases of this extraordinary punishment. In Cambridge, Mass., a negro woman was burnt at the stake in 1749 for murdering her master; and in 1746 a negro woman named Eve was burnt, by order of court, in Orange county, Va., for poisoning her master; and it is proposed to give some account of her trial." (Vol. III, p. 308.) At page 430 Dr. Grinnan added a note, from which it appears that the third instance of burning alive took place in New York City in or about 1742-50, when "nine or ten negroes were arrested, convicted, and burnt alive." This statement is made on the authority of Smollet's *History of England*.

If the passage to which I am about to call attention is authentic, it follows that a fourth instance of burning alive took place in South Carolina in July, 1769. The passage occurs at page two, column two, of the *Boston News-Letter*, No. 3440, September 7, 1769, and is as follows:

"By the *Hartford Post*. Charles-Town, (South-Carolina,) August 1.—Friday last a negro man belonging to Messrs. Price, Hest, and Head, and a negro woman belonging to Mr. James Sands, merchant, were burnt alive, on the Work-House Green, having been tried some short time before, agreeable to the Negro-Act, and convicted of administering poison to the said Mr. Sands, his wife, and child, of which the last died. A mulatto named Dick, formerly a slave to Mr. d' Harriette, but afterwards manumitted, who Sands accused as instigator of these horrid crimes, has disappeared."

ALBERT MATTHEWS.